

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

BARBARA J. METCALF,

Plaintiff,

7:15-CV-1212
(GTS/WBC)

v.

CAROLYN W. COLVIN,
Acting Commissioner of Social Security,

Defendant.

APPEARANCES:

OF COUNSEL:

OLINSKY LAW GROUP
Counsel for Plaintiff
300 South State Street, Suite 420
Syracuse, New York 13202

HOWARD D. OLINSKY, ESQ.

SOCIAL SECURITY ADMINISTRATION
OFFICE OF REG'L GEN. COUNSEL-REGION II
Counsel for Defendant
26 Federal Plaza, Room 3904
New York, New York 10278

PETER W. JEWETT, ESQ.

GLENN T. SUDDABY, Chief United States District Judge

DECISION and ORDER

Currently before the Court, in this Social Security action filed by Barbara J. Metcalf ("Plaintiff") against the Commissioner of Social Security ("Defendant" or "the Commissioner"), is the Report-Recommendation of United States Magistrate Judge William B. Mitchell Carter recommending that Plaintiff's motion for judgment on the pleadings be granted, Defendant's motion for judgment on the pleadings be denied, the Commissioner's decision denying Plaintiff Social Security benefits be reversed, and this matter be remanded to the Commissioner of Social Security for further proceedings under sentence four of 42 U.S.C. § 405(g). (Dkt. No. 16.)

Objections to the Report-Recommendation have not been filed and the time in which to do so has expired. (*See generally* Docket Sheet.)

After carefully reviewing all of the papers in this action, including Magistrate Judge Carter's thorough Report-Recommendation, the Court can find no clear error in the Report-Recommendation.¹ Magistrate Judge Carter employed the proper legal standards, accurately recited the facts, and correctly applied the law to those facts. (Dkt. No. 16.) As a result, the Report-Recommendation is accepted and adopted in its entirety; Plaintiff's motion for judgment on the pleadings is granted; Defendant's motion for judgment on the pleadings is denied; the Commissioner's decision denying disability insurance benefits is reversed; and this matter is remanded to the Commissioner of Social Security for further proceedings under sentence four of 42 U.S.C. § 405(g).

ACCORDINGLY, it is

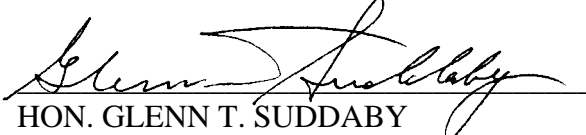
ORDERED that Magistrate Judge Carter's Report-Recommendation (Dkt. No. 16) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further

ORDERED that Plaintiff's motion for judgment on the pleadings (Dkt. No. 11) is **GRANTED**, Defendant's motion for judgment on the pleadings (Dkt. No. 14) is **DENIED**, the Commissioner's decision denying Plaintiff Social Security benefits is **REVERSED**, and this

¹ When no objection is made to a report-recommendation, the Court subjects that report-recommendation to only a "clear error" review. Fed. R. Civ. P. 72(b), Advisory Committee Notes: 1983 Addition. When performing such a clear error review, "the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Id.*; *see also* *Batista v. Walker*, 94-CV-2826, 1995 WL 453299, at *1 (S.D.N.Y. July 31, 1995) (Sotomayor, J.) ("I am permitted to adopt those sections of [a magistrate judge's] report to which no specific objection is made, so long as those sections are not facially erroneous.") (internal quotation marks omitted).

matter is **REMANDED** to the Commissioner of Social Security for further proceedings under sentence four of 42 U.S.C. § 405(g).

Dated: February 28, 2017
Syracuse, New York



HON. GLENN T. SUDDABY
Chief United States District Judge